

Council Reference: 49462E (D22/17897)

13/01/2022

Department of Planning, Industry & Environment - Local and Regional Planning
PO Box 5475
WOLLONGONG NSW 2500

By email only: wollongong@planning.nsw.gov.au

Attention: Lisa Kennedy

Dear Lisa

**Update and Gateway extension request –
Warrah Road Planning Proposal PP005, Bangalee**

I am writing to formally request an extension to the Gateway determination for the Warrah Road Planning Proposal (PP005) at Bangalee. This is one of the five “Legacy” PPs for which the original Gateway was terminated on 15 December 2020. A new Gateway determination was issued on 25 February 2021 with a timeframe of 12 months. The Gateway will expire on 25 February 2022, if it is not extended.

The new Gateway was issued based on an updated Planning Proposal (PP) document (prepared by Council for Public Exhibition) dated January 2021. The current Gateway determination includes the following requirements:

1. Public exhibition is required under section 3.34(2)(c) and schedule 1 clause 4 of the Act as follows: (a) the planning proposal must be made publicly available for a minimum of 28 days; and (b) the planning proposal authority must comply with the notice requirements for public exhibition of planning proposals and the specifications for material that must be made publicly available along with planning proposals as identified in section 6.5.2 of A guide to preparing local environmental plans (Department of Planning and Environment, 2018).
2. Consultation is required with the NSW RFS under section 3.34(2)(d) of the Act and/or to comply with the requirements of the section 9.1 Direction 4.4 Planning for Bushfire Protection. NSW RFS is to be provided with a copy of the planning proposal and any relevant supporting material and given at least 21 days to comment on the proposal

An update on the above Gateway requirements is provided below.

Gateway requirement	Status / Comments
Public Exhibition: minimum 28 days	The PP was exhibited for 43 days between 12 May and 25 June 2021. A “Get Involved” page was created on Council’s website: https://getinvolved.shoalhaven.nsw.gov.au/warrah-

	<p>road-bangalee-planning-proposal. All exhibition documentation was accessible from this page as were agency comments, technical support studies, gateway determinations and Council reports and resolutions. Drop-in sessions were held during the exhibition period and 24 submissions were received on the PP. Five key issues were raised: 1. Minimum lot size; 2. Traffic and access, specifically the need for an alternate and/or secondary access other than Warrah Road and concerns about bushfire risk and evacuation arising from the increased population, additional traffic, and access issues. 3. Environmental – loss of bushland and wildlife habitat. Impact on threatened species caused by previous clearing and proposed development; 4. Major infrastructure to be provided prior to development and; 5. Impact of additional population on the capacity of local primary schools. These concerns will be addressed in a report to Council in the near future. A Biodiversity Certification Application and BCAR were also exhibited concurrently with the PP. No submissions were received on the BCAR.</p>
Consultation with the NSW RFS	<p>Comments were received from the NSW RFS on 16 July 2021 (post exhibition). The RFS advised that the PP was inconsistent with Planning for Bushfire Protection (PBP) 2019 and therefore did not satisfy Ministerial Direction 4.4. Feedback from the RFS on the PP had been requested many times since September, 2020. These comments, therefore, triggered a request to DPIE for assistance from the Planning Delivery Unit (PDU) on 27 July 2021. A series of meetings were held variously with representatives from the PDU, the Biodiversity Conservation Division, the Regional Office, the NSW RFS, the proponent and Council. Discussions convened by the PDU, culminated in agreed outcomes (further discussed below), a new referral to the RFS and the attached comments dated 18 October 2021. The RFS required an updated Bushfire Assessment Report that considers the relevant bushfire protection measures of PBP 2019. This report was received by Council on 15 December 2021 and referred to the RFS for comment via the Portal. Receipt was acknowledged on 19 December 2021.</p>

As you know, the PDU intervention has resulted in revisions to the development footprint that will need to be endorsed by Council and re-exhibited. The proponent has arranged for the relevant supporting studies to be updated and these are expected to be received in the near future.

The proposed footprint would impact on parts of the site subject to the Remediation Order and a small area of HVC land. BCD's comments dated 2 November 2021, supporting the revised proposal are attached and have been provided to the proponent. BCD's support is conditional upon residue of Lot 24 (about 45 ha) being wholly contained within a single fully funded BSA lot to be transferred to Council. In addition to the BAR, on 15 December 2021 the proponent submitted a draft updated BCAR and proposed Subdivision Concept Plan. The updated BCAR is currently under review. Internal comments are also being sought on the revised urban footprint and the potential impacts.

It is proposed to report the outcomes of the public exhibition of the PP and the PDU intervention to Council in March. Council agreement, in principle, is required to accept dedication of the BSA lot and, if supported, the PP will need to be re-exhibited.

Discussions with BCD about the Biodiversity Certification Application, updating of the BCAR and the BSA application to the BCT are continuing. BCD has agreed to notations on the subdivision concept plan to address their concerns about stormwater management being wholly contained within the urban footprint.

Given your participation in the PDU intervention, we anticipate you would agree that significant progress has been achieved in the last 12 months. A revised project plan is provided below.

Activity / milestone	Anticipated completion date
Report to Council seeking endorsement to exhibit revised proposal and in-principle agreement to accept Biodiversity Stewardship Agreement (BSA) Lot.	March 2022
Update PP and prepare exhibition package.	March/April 2022
Public Exhibition. All relevant agencies to be notified including Nowra LALC and Jerrinja Tribe.	April/May 2022
Consideration of Submissions	June 2022
Report exhibition outcomes to Council for consideration	July 2022
Finalise PP	August 2022

An extension to the Gateway to accommodate the above project plan is requested.

If you need further information about this matter, please contact Maggie Chapman, City Futures on (02) 4429 3485. Please quote Council's reference 49462E (D22/13769).

Yours faithfully



Eric Hollinger
Coordinator - Special Projects Team

Encl: Determination Letter
BCD Response